



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Washington Horse Racing Commission

Permanent Rule Only

Effective date of rule:

Permanent Rules

☒ 31 days after filing.

☐ Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

☐ Yes

☒ No

If Yes, explain:

Purpose: To repeal sections of WAC 260-08 that address public records and adopt a new chapter, WAC 260-09, this incorporates the Washington State recommended model rules.

Citation of existing rules affected by this order:

Repealed: WAC 260-08-620 WAC 260-08-630 WAC 260-08-650 WAC 260-08-660

Amended:

Suspended:

Statutory authority for adoption: RCW 67.16.020 & RCW 67.16.040

Other authority :

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 10-02-039 on December 30, 2009.

Describe any changes other than editing from proposed to adopted version:

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

Date adopted: February 11, 2010

NAME (TYPE OR PRINT)

Douglas L. Moore

SIGNATURE

Douglas L. Moore

TITLE

Deputy Secretary

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: February 12, 2010

TIME: 10:36 AM

WSR 10-05-065

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	<u>8</u>	Amended		Repealed	<u>4</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>8</u>	Amended		Repealed	<u>4</u>
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The number of sections adopted using:

Negotiated rule making:	New	<u>8</u>	Amended		Repealed	<u>4</u>
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

Chapter 260-09 WAC

PUBLIC RECORDS

NEW SECTION

WAC 260-09-010 Authority and purpose. (1) The purpose of these rules is to establish the procedures the commission will follow in order to provide full access to public records. These rules provide information to persons wishing to request access to public records of the commission and establish processes for both requestors and the commission staff that are designed to best assist members of the public in obtaining such access.

(2) The purpose of the chapter is to also provide the public full access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of the efficient administration of government. These rules will be interpreted in favor of disclosure. In carrying out its responsibilities, the commission will be guided by the provisions of the public records law of the state of Washington.

NEW SECTION

WAC 260-09-020 Agency description--Contact information--Public records officer. (1) The commission is responsible for licensing, regulating and supervising all horse racing meets in the state where the parimutuel system is used. The commission also approves and regulates satellite locations and simulcasting, and licenses and regulates advance deposit wagering. The commission's central office is located at 6326 Martin Way, Suite 209, Olympia, WA 98516-5578. The commission has field offices at Emerald Downs in Auburn, WA, and nonprofit meets while in operation.

(2) Any person wishing to request access to public records of the commission, or seeking assistance in making such a request should contact the public records officer of the commission. Information is also available at the commission's web site at www.whrc.wa.gov.

(3) The public records officer will oversee compliance with accessing public records the act but another commission staff

member may process the request. Therefore, these rules will refer to the public records officer "or designee." The public records officer or designee will provide the "fullest assistance" to requestors; create and maintain for use by the public and commission employees an index to public records of the commission; ensure that public records are protected from damage or disorganization; and prevent fulfilling public records requests from causing excessive interference with essential functions of the commission.

NEW SECTION

WAC 260-09-030 Availability of public records. (1) Hours for inspection of records. Public records are available for inspection and copying during normal business hours of the commission. Records must be inspected at the offices of the commission.

(2) Organization of records. The commission will take reasonable actions to protect records from damage and disorganization. A requestor may not take records from commission offices without the permission of the public records officer or designee. A variety of records is available on the commission web site at www.whrc.wa.gov. Requestors are encouraged to view the documents available on the web site prior to submitting a records request.

(3) Making a request for public records.

(a) Any person wishing to inspect or copy public records of the commission should make the request in writing, fax, or e-mail addressed to the public records officer and include the following information:

- (i) Name of requestor;
- (ii) Address of requestor;
- (iii) Other contact information, including telephone number and any e-mail address;
- (iv) Identification of the public records adequate for the public records officer or designee to locate the records; and
- (v) The date and time of day of the request.

(b) If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should so indicate and make arrangements to pay for copies of the records or a deposit. Standard photocopies will be provided at fifteen cents per page.

(c) The public records officer or designee may accept requests for public records that contain the above information by telephone or in person. If the public records officer or designee accepts such a request, he or she will confirm receipt of the information and the substance of the request in writing.

NEW SECTION

WAC 260-09-040 Processing of public records requests--

General. (1) Acknowledging receipt of request. Within five business days of receipt of the request, the public records officer will do one or more of the following:

- (a) Make the records available for inspection or copying;
- (b) If copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor;
- (c) Provide a reasonable estimate of when records will be available; or
- (d) If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Such clarification may be requested and provided by telephone. The public records officer or designee may revise the estimate of when records will be available; or
- (e) Deny the request.

(2) Consequences of failure to respond. If the commission does not respond in writing within five business days of receipt of the request for disclosure, the requestor should consider contacting the public records officer to determine the reason for the failure to respond.

(3) Protecting rights of others. In the event that the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records officer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask him or her to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.

(4) Records exempt from disclosure. Some records are exempt from disclosure, in whole or in part. If the commission believes that a record is exempt from disclosure and should be withheld, the public records officer will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

(5) Inspection of records.

(a) Consistent with other demands, the commission will promptly provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor shall indicate which documents he or she wishes the agency to copy.

(b) The requestor must claim or review the assembled records within thirty days of the commission notification to him or her that the records are available for inspection or copying. The

agency will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the agency to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, the commission may close the request and refile the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

(6) Providing copies of records. After inspection is complete, the public records officer or designee will make the requested copies or arrange for copying.

(7) Providing records in installments. When the request is for a large number of records, the public records officer or designee will provide access for inspection and copying in installments if he or she reasonably determines that it would be practical to provide the records in that way. If, within thirty days, the requestor fails to inspect the entire set of records or one or more of the installments, the public records officer or designee may stop searching for the remaining records and close the request.

(8) Completion of inspection. When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee will indicate that the commission has completed a diligent search for the requested records and made any located nonexempt records available for inspection.

(9) Closing withdrawn or abandoned request. When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the public records officer will close the request and indicate to the requestor that the commission has closed the request.

(10) Later discovered documents. If, after the commission has informed the requestor that it has provided all available records, the commission becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

NEW SECTION

WAC 260-09-050 Processing of public records requests--Electronic records. (1) The process for requesting electronic public records is the same as for requesting paper public records.

(2) When a requestor requests records in an electronic format, the public records officer will provide the nonexempt records or portions of such records that are reasonably locatable in an

electronic format that is used by the agency and is generally commercially available, or in a format that is reasonably translatable from the format in which the agency keeps the record.

NEW SECTION

WAC 260-09-060 Exemptions. (1) The Public Records Act provides that a number of types of documents are exempt from public inspection and copying. In addition, documents are exempt from disclosure if any "other statute" exempts or prohibits disclosure. Requestors should be aware of the following exemptions, outside the Public Records Act, that restrict the availability of some documents held by the commission for inspection and copying: Chapter 10.97 RCW.

(2) The commission is prohibited by statute from disclosing lists of individuals for commercial purposes.

NEW SECTION

WAC 260-09-070 Costs of providing copies of public records.

(1) There is no fee for inspecting public records. A requestor may obtain standard black and white photocopies for fifteen cents per page. (There is no charge for photocopies of twenty pages or less.)

Before beginning to make the copies, the public records officer or designee may require a deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment. The commission will not charge sales tax when it makes copies of public records.

(2) Costs for electronic records. The cost of electronic copies of records shall be one dollar for information on a CD-ROM. There will be no charge for e-mailing electronic records to a requestor, unless another cost applies such as a scanning fee.

(3) Costs of mailing. The commission may also charge actual costs of mailing, including the cost of the shipping container.

(4) Payment. Payment may be made by cash, check, or money order to the Washington horse racing commission.

NEW SECTION

WAC 260-09-080 Review of denials of public records. (1) Any person who objects to the initial denial or partial denial of a records request may petition in writing (including e-mail) to the public records officer for a review of that decision. The petition will include a copy of or reasonably identify the written statement by the public records officer or designee denying the request.

(2) Consideration of petition for review. The public records officer will promptly provide the petition and any other relevant information to the executive secretary of the commission. The executive secretary will immediately consider the petition and either affirm or reverse the denial within two business days following the commission's receipt of the petition, or within such other time as commission and the requestor mutually agree to.

(3) Review by the attorney general's office. If the commission denies a requestor access to public records because it claims the record is exempt in whole or in part from disclosure, the requestor may request the attorney general's office to review the matter. The attorney general has adopted rules on such requests in WAC 44-06-160.

(4) Judicial review. Any person may obtain court review of denials of public records requests at the conclusion of two business days after the initial denial regardless of any internal administrative appeal.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 260-08-620	Requests for public records.
WAC 260-08-630	Copying fees.
WAC 260-08-650	Review of denials of public records.
WAC 260-08-660	Protection of public records.